

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

IN RE:

THE BENNETT FUNDING GROUP, INC.

CASE NO. 96-61376

Debtors

Chapter 11

Substantively Consolidated

APPEARANCES:

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Attorneys for Official Committee of Unsecured Creditors

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Hon. Stephen D. Gerling, Chief U.S. Bankruptcy Judge

**MEMORANDUM-DECISION, FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER**

The Court considers the Eleventh Interim Fee Application ("Eleventh Application") of Zolfo Cooper, LLC ("ZC"), financial adviser to the Official Committee of Unsecured Creditors ("Committee"). The Eleventh Application, which was filed on May 3, 2001, seeks payment of

\$35,204.50 in professional fees, \$970¹ for paraprofessional/support fees and \$1,895.39 in reimbursement of expenses and covers the period from October 1, 2000 through March 9, 2001. The hearing on the Eleventh Application was originally scheduled for June 14, 2001, but was adjourned until July 12, 2001, at which time the Court orally made a provisional award of \$25,000 in fees and \$1,500 in expense reimbursement.² Objection to the Eleventh Application was interposed by the United States Trustee (“UST”) on June 11, 2001, to which ZC filed a response on June 22, 2001.

JURISDICTIONAL STATEMENT

The Court has core jurisdiction over the parties and subject matter of this contested matter pursuant to 28 U.S.C. §§ 1334(b) and 157(a), (b)(1) and (b)(2)(A) and (O).

FACTS AND DISCUSSION

ZC has filed ten prior fee applications with this Court to date. Its Eleventh Application is actually captioned “Eleventh and Final Application of Zolfo Cooper, LLC” Reference was made in its Eleventh Application to the fact that there was an aggregate amount of fees and expenses of

¹ The Original application’s cover sheet, filed March 3, 2001, listed paraprofessional/support fees of \$832. However, the cover sheet filed on May 11, 2001, identified \$970 in fees.

² The Order signed by the Court on July 20, 2001, provides for an award of \$500 for reimbursement of expenses. According to the Court’s records, a call was placed to counsel for the Committee on July 23, 2001, apprising him of the discrepancy. A review of the docket in the case indicates that no amended order was ever submitted.

\$71,402.72 for which it was also seeking payment for the period from November 1, 1996 through September 30, 2000. At the hearing the UST clarified that ZC was not seeking payment of fees that had previously been disallowed. It was merely indicating that there were additional fees and expenses that had not previously been ruled on by the Court in connection with ZC's Tenth Interim Fee Application at the time of the hearing. Subsequently, on October 3, 2001, the Court issued a Memorandum-Decision, Findings of Fact, Conclusions of Law and Order in connection with the Tenth Interim Fee Application. In that Decision, the Court allowed additional fees of \$61,741 and \$1,195.22 in expenses, over and above the provisional award it had previously made on December 14, 2000, in the amount of \$155,000, and \$2,500, respectively. However, the Court required that \$50,000 of that award be held back pending a final disposition of the Equivest stock. ZC's Final Application is scheduled to be heard on January 30, 2003.

In its objection filed on June 11, 2001, the UST took issue with ZC's estimation of its fees and expenses in the amount of \$1,250. In its response to the UST's objection, ZC explained that it had actually not added such estimates and only included the actual fees incurred prior to the filing of the Eleventh Application, through March 9, 2001, as set forth in Exhibit D.

The UST also takes issue with ZC's request for \$10,803 in connection with the preparation of its fee application. As these services benefitted only ZC and in keeping with the Court's prior policy regarding similar services, it will reduce this amount to \$2,000.

ZC also seeks compensation for so-called "paraprofessional and support fees." It is not clear from the Eleventh Application the exact nature of these services and the qualifications of the individuals performing them. Thus, absent a further explanation, the Court will disallow those fees totaling \$970

as it has in prior applications.

In summary, the Court make the following reductions to fees and expenses sought in the Eleventh Application:

<u>Total requested professional and Paraprofessional/Support Fees:</u>	\$36,174.50
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Disallowances:

Fee Application	\$ 8,803.00
Provisional Award granted on 7/20/01	25,000.00
Paraprofessional/Support Fees	970.00

<u>Net Total Fee Allowed</u>	\$ 1,401.50
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<u>Total Requested Expenses:</u>	\$ 1,895.39
Provisional Award granted 7/20/01	500.00

<u>Net Total Expenses Allowed</u>	\$ 1,395.39
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Based on the foregoing, it is

ORDERED that the fees and expenses requested by ZC in its Eleventh Application shall be allowed and disallowed as detailed above; and it is further

ORDERED that payment of the remaining balance of allowed fees and expenses totaling \$2,796.89 shall be made from unencumbered assets of the consolidated Estates.

Dated at Utica, New York

this 17th day of January 2003

STEPHEN D. GERLING
Chief U.S. Bankruptcy Judge

